

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

v.

RAMON ARAGON, *et al.*,

Defendants.

69cv07941 JEC-ACE

RIO CHAMA STREAM SYSTEM
Section 3: Rio Nutrias, Rio Cebolla
Canjilon Creek

ORDER AMENDING PROCEDURAL ORDER ENTERED JULY 25, 2000

THIS MATTER is before the Special Master on the August 3, 2001, Motion to Amend the Procedural Order Entered July 25, 2000 (Docket No. 5913) filed by the plaintiff, State of New Mexico, *ex rel.* State Engineer.

Having heard the statements of counsel at the July 31, 2001 status conference, and otherwise being fully advised in the premises, I find that the motion is well taken and should be GRANTED.

IT IS ORDERED, THEREFORE, that the July 25 Order is amended as follows:

Paragraph II (A) (1):

1. Claimants who agree with all the elements of the water rights claims as set out in the proposed Consent Order(s) shall sign and return each order to the State on or before December 28, 2001. The State shall transmit the signed orders to the Court for approval and filing.

Paragraph II (B) (2):

2. Claimants who reject the proposed Consent Order after discussion with the State at a field office session shall file the Form Answer included in the service packet with the Court on or

before December 28, 2001, and shall mail a copy of the Answer to the State.

Paragraph II (C) (2):

2. A claimant's failure to sign and return a Consent Order or file an Answer by December 28, 2001, shall be considered grounds for the entry of a Default Order which incorporates the State's proposed Consent Order. The State shall request the Clerk of the Court, under Rule 55(a), to enter the default of claimants who have failed to sign and return a Consent Order or file an Answer by December 28, 2001. Provided, (a) no default shall be entered against any claimant who has not been properly served with process or waived such service; (b) no default shall be entered until a claimant has had at least 30 days to review a proposed Consent Order sent by the State; and (c) no default shall be entered if a claimant is engaged in good faith negotiations with the State concerning the terms of a proposed Consent Order, unless the State requests in writing that the claimant file an Answer to the Complaint within 30 days.

Paragraph II (D) (1):

1. By October 4, 2002, the State shall request hearings for all disputed claims for which Answers are filed. Requests shall include a statement that the State made a good faith attempt to resolve the disagreement with the Claimant.

Counsel for the State is hereby directed to notify claimants who have not yet filed Answers or Consent Orders of the changes set forth above. Notification may be made by explanatory letter.

IT IS SO ORDERED.


SPECIAL MASTER

DISTRIBUTION LIST

State of New Mexico ex rel. State Engineer v. Aragon, 69 CV 07941 JC
Rio Chama Adjudication - Section 3: Rio Nutrias, Rio Cebolla & Canjilon Creek
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